



INTERNATIONAL EXPERIENCE IN LIABILITY FOR OFFICIAL CRIMES COMMITTED BY OFFICIALS OF COMMERCIAL ORGANIZATIONS

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***Abstract** Official crimes committed by officials of commercial organizations represent a serious threat to economic security, corporate governance, and public trust in market institutions. Such crimes include bribery, abuse of authority, fraud, embezzlement, and other corrupt practices committed by individuals performing managerial or administrative functions within private entities. In response, many states have developed legal mechanisms to ensure accountability of corporate officials and, in some cases, the commercial organizations themselves. This article examines international experience in establishing liability for official crimes committed by officials of commercial organizations. Using a comparative legal approach, the study analyzes legislative models and enforcement practices in selected jurisdictions, including the United States, the United Kingdom, and Germany, as well as relevant international legal instruments. The findings demonstrate a global trend toward expanding criminal and administrative liability, strengthening compliance systems, and harmonizing national legislation with international anti-corruption standards.*

***Keywords:** official crimes; commercial organizations; corporate officials; criminal liability; corporate governance; corruption; international experience; comparative law; compliance systems.*

1. Introduction

The expansion of global trade and the increasing complexity of corporate structures have significantly enhanced the role of commercial organizations in modern economies. Officials of such organizations—directors, executives, managers, and other persons exercising organizational or administrative authority—play a decisive role in shaping business decisions. While their authority is essential for effective corporate governance, it also creates opportunities for abuse.

Official crimes committed by officials of commercial organizations differ from ordinary economic offenses in that they involve the misuse of entrusted power or authority. These crimes may include bribery in private transactions, abuse of managerial powers, falsification of financial records, and misappropriation of corporate assets. The consequences of such conduct extend beyond individual companies, affecting market integrity, investor confidence, and fair competition (Wells, 2011).

Traditionally, criminal law focused on public officials, while misconduct in the private sector was addressed primarily through civil or commercial law. However, international practice increasingly recognizes that private-sector official crimes require effective criminal and administrative responses. This shift reflects the growing understanding that corporate officials can cause harm comparable to, or even greater than, that caused by public officials.

Giving while knowing that it is unlawful refers to situations in which the relevant act (or omission) is directly prohibited by applicable regulatory legal acts or constituent documents, or does not arise from the official duties of the employee under the law.

Performing or refraining from performing an act through the use of one's official powers implies the use of existing legal and practical opportunities; that is, it may also include acts (or omissions) that do not formally fall within the scope of the official's authority, but are based on the official's service-related influence, reputation, awareness, access to information, and similar factors.

The performance or non-performance of an act, by its nature, must be unlawful in advance or be contrary to the lawful interests of the non-state commercial organization or other non-state bodies, enterprises, institutions, or organizations in which the official is employed.

The method and form of inducement in return for a bribe are irrelevant. The unlawful receipt of material valuables or property-related benefits may be carried out by the official personally or through an intermediary.

Inducement in return for a bribe may be carried out openly or covertly, in the form of a gift, through the sale of material valuables at a deliberately reduced price, by concluding a fictitious employment contract, or in other forms.

The law does not distinguish between inducement in return for a bribe occurring before the performance of a specific act or after the relevant act has been performed; in all cases, such conduct entails the same criminal liability. (M.X.Rustambaev., 2016)

2. Methods

This study employs a **comparative legal research methodology**. The analysis is based on:

- National criminal and corporate legislation;
- Law enforcement and judicial practices;

- International conventions and policy documents.

The research focuses on three jurisdictions representing different legal traditions: the United States (common law), the United Kingdom (common law with statutory emphasis), and Germany (civil law). In addition, international legal instruments developed by global and regional organizations are examined to assess their impact on national legal systems.

Primary sources include statutes, conventions, and official guidelines, while secondary sources consist of academic monographs, journal articles, and comparative law studies. The purpose of this approach is to identify common trends and distinctive features in regulating liability for official crimes committed by officials of commercial organizations.

3. Results

3.1 United States

In the United States, liability for official crimes committed by corporate officials is primarily regulated through federal criminal law. Corporate officials may be held personally liable for offenses such as wire fraud, securities fraud, bribery, money laundering, and conspiracy. One of the most significant legal instruments is the Foreign Corrupt Practices Act (FCPA), which criminalizes bribery of foreign public officials and imposes strict accounting and internal control requirements on companies.

U.S. enforcement practice places strong emphasis on individual criminal liability. Prosecutorial authorities increasingly pursue senior executives alongside corporations, particularly in cases involving systemic misconduct. Penalties may include imprisonment, substantial fines, asset forfeiture, and disqualification from holding managerial

positions. At the same time, corporations may also be held liable under the doctrine of vicarious liability, whereby acts of officials committed within the scope of their employment are attributed to the company (Coffee, 2019).

3.2 United Kingdom

The United Kingdom has adopted a comprehensive and preventive approach to liability for official crimes in commercial organizations. The Bribery Act 2010 represents one of the most stringent anti-corruption laws globally. It establishes criminal liability for individuals who engage in active or passive bribery and introduces a specific offense for commercial organizations that fail to prevent bribery.

Corporate officials may be personally liable if they consent to or connive in corrupt practices. Importantly, the Act provides a defense for companies that can demonstrate the existence of “adequate procedures” designed to prevent bribery. This approach encourages the development of compliance systems and shifts part of the regulatory focus toward prevention rather than punishment alone (Wells, 2011).

3.3 Germany

Germany’s legal system traditionally emphasizes individual criminal responsibility rather than corporate criminal liability. Officials of commercial organizations may be prosecuted for crimes such as breach of trust, fraud, and commercial bribery under the German Criminal Code. These offenses are particularly relevant where corporate officials misuse their managerial authority to cause financial harm.

Although German law does not formally recognize corporate criminal liability in the classical sense, companies may be subject to significant administrative fines under the Administrative Offenses Act if crimes are

committed by their officials. Corporate officials themselves may face imprisonment, monetary penalties, confiscation of illegal profits, and professional bans. Recent reforms and proposals indicate a gradual movement toward strengthening corporate accountability mechanisms (Heine & Weißer, 2020).

4. Discussion

The comparative analysis reveals several common trends in international experience. First, there is a clear expansion of liability for officials of commercial organizations, reflecting the recognition that private-sector misconduct can pose systemic risks to economies and societies. Most jurisdictions emphasize individual criminal responsibility, even where corporate liability is also recognized.

Second, preventive mechanisms, particularly compliance and corporate governance systems, have become central elements of modern liability frameworks. The UK model demonstrates how effective compliance programs can serve both as preventive tools and as legal defenses, encouraging companies to internalize anti-corruption standards.

Third, international legal instruments significantly influence domestic reforms. States increasingly align their legislation with international anti-corruption obligations, especially in response to cross-border economic activity. Nevertheless, differences remain in enforcement intensity, procedural safeguards, and the balance between punitive and preventive approaches.

5. Conclusion

International experience demonstrates that liability for official crimes committed by officials of commercial organizations is an essential

component of modern criminal and corporate law. States employ a combination of criminal, administrative, and civil measures to ensure accountability and deter abuses of authority. A common global trend is the strengthening of individual liability, supported by compliance-based preventive strategies and international cooperation. Continued harmonization of national legislation and effective enforcement remain key challenges in combating official crimes in the commercial sector.

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